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Doc#: 1630055019 Fee: \$68.00
Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 10/26/2016 08:48 AM Pg: 1 of 11

This Instrument Prepared
by and after recording return to:

Jeffrey A. Burger
The Law Office of Jeffrey A. Burger, LLC
105 West Madison Street
Suite 1500
Chicago, Illinois 60602

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ASSIGNMENT OF LEASES AND RENTS

DATED AS OF

OCTOBER 19, 2016

FROM

CDS HARVARD, LLC

TO

THE PRIVATEBANK AND TRUST COMPANY

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ASSIGNMENT OF LEASES AND RENTS

This Assignment of Leases and Rents dated as of October 19, 2016 (as amended and supplemented from time to time, this "*Assignment*" or this "*Assignment of Leases*") from CDS HARVARD, LLC, a Illinois limited liability company (together with its successors and assigns, the "*Assignor*"), having an address of 225 West Wacker Drive, Suite 1550, Chicago, Illinois 60606, to THE PRIVATEBANK AND TRUST COMPANY, having an address at 120 South La Salle Street, Chicago, Illinois 60603 (hereinafter, together with its successors and assigns, referred to as the "*Assignee*").

NOW THEREFORE, in consideration of the sum of Ten Dollars and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged and in order to secure (i) payment of the principal of, premium, if any, and interest on that certain Promissory Note dated as of October 19, 2016 (as amended and supplemented from time to time, the "*Note*") in the principal amount of \$2,145,500.00 from the Assignor, as maker thereunder, to the Assignee, as payee thereunder, (ii) observance and performance of all covenants and agreements of the Assignor contained herein and in (a) that certain Mortgage and Security Agreement and Fixture Financing Statement with Assignment of Leases and Rents, dated as of October 19, 2016 (as amended and supplemented from time to time, the "*Mortgage*") from the Assignor, as mortgagor thereunder, to the Assignee, as mortgagee thereunder; (b) that certain Loan Agreement dated as of October 19, 2016 (as amended and supplemented from time to time, the "*Loan Agreement*") between the Assignor and the Assignee; and (c) in the other instruments or documents evidencing or securing the Note (collectively, the "*Loan Documents*"), and (iii) payment of all expenses and charges, legal or otherwise, suffered or incurred by the Assignee in enforcing payment of the Note or in realizing upon, protecting or preserving the collateral security therefor, (the indebtedness evidenced by the Note and all of such other indebtedness, obligations and liabilities referred to in the foregoing clauses (i), (ii) and (iii) being hereinafter collectively referred to as the "*obligations hereby secured*"), the Assignor hereby absolutely and unconditionally assigns to the Assignee all of the right, title and interest of the Assignor in, under or pursuant to any and all present leases and every tenancy, occupancy, use, sale or license agreement relating to the real estate described in *Exhibit A* attached hereto (the "*Real Estate*"), and future leases and subleases and every tenancy, occupancy, use, sale or license agreement, whether written or oral, or any lettings of possession of, or any agreements for the use or occupancy of, the whole or any part of the Real Estate and the improvements now or hereafter erected on the Real Estate (the Real Estate and the improvements on the Real Estate are collectively referred to herein as the "*Premises*"), which the Assignor may have heretofore made or agreed to or may hereafter make or agree to, or which may be made or agreed to by the Assignee under the powers hereinafter granted, including all amendments and supplements to and renewals thereof at any time made and all guaranties or agreements, the payment and/or

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performance thereof relating to the Premises (herein collectively referred to as the "Leases") and all right, title and interest of the Assignor in and to all the rents (whether fixed or contingent), earnings, security deposits, impounds for the payment of taxes and common area maintenance at the Premises, renewal rents and all other sums due or which may hereafter become due under or by virtue of the Leases and all rights under or against guarantors of the obligations of lessees and obligors under the Leases including, without limiting the generality of the foregoing, all right, title and interest of Assignor in and to all the rents (whether fixed or contingent), earnings, renewal rents and all other sums due or which may hereafter become due under or by virtue of the Leases, and all rights under or against guarantors of the obligations of lessees under the Leases and all earnings due by virtue of agreements and rights to sell products and services at the Premises.

1. At any time after the purchase of the Note and the funding of the loan evidenced thereby or upon the occurrence of an Event of Default under this Assignment of Leases or under the other Loan Documents, the Assignor hereby covenants and agrees that the Assignee can give notice of this Assignment of Leases to any tenant of the Premises.

2. As of the date of the Note, the Assignor represents and warrants to the Assignee that the Assignor has the legal right to execute and deliver this Assignment of Leases and that the Assignor has not heretofore alienated, assigned, pledged or otherwise disposed of any of the rights, rents and other sums due or which may hereafter become due and which are intended to be assigned hereunder.

3. A breach of the Assignor's covenants, agreements, representations and warranties under this Assignment of Leases, or the occurrence of an Event of Default under any of the other Loan Documents shall constitute an "Event of Default" hereunder. Upon the occurrence of an Event of Default hereunder or under any of the other Loan Documents, the Assignor does hereby irrevocably constitute and appoint the Assignee or any receiver who has been appointed with respect to the Premises (or any portion thereof) the true and lawful attorney of the Assignor with full power of substitution for the Assignor and in the Assignor's name, place and stead to ask, demand, collect, receive, receipt for, sue for, compound and give acquittance, for any and all sums due or to become due under any Lease, with full power to settle, adjust or compromise any claim thereunder as fully as the Assignor could do, and to endorse the name of the Assignor on all commercial paper given in payment or in part payment thereof, and in the Assignee's discretion to file any claim or take any other action or proceeding, either in the Assignee's name or in the name of the Assignor or otherwise, which the Assignee may deem necessary or appropriate to protect and preserve the right, title and interest of the Assignee in and to such sums and the security intended to be afforded hereby.

4. Prior to the occurrence of an Event of Default hereunder or under any of the other Loan Documents, the Assignor shall have a license to collect, use and enjoy all rents and other sums due or to become due under and by virtue of any Lease as they respectively become due, but not more than 30 days in advance. The Assignor acknowledges and agrees that the rents, profits, revenues, proceeds and all other sums due or to become due under and by virtue of all Leases of the Premises have been absolutely and unconditionally assigned to the Assignee and that upon the occurrence of an Event of Default hereunder or upon the occurrence of an Event of Default under any of the other Loan Documents, all such rents, profits, revenues, proceeds and

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other sums shall be paid to the Assignee and shall be applied by the Assignee pursuant to the provisions of this Assignment. It is understood and agreed by the Assignor that upon the occurrence of an Event of Default hereunder or under the Note or any of the other Loan Documents that rents and profits of the Premises shall not be available to pay the costs of the defense of any action, proceeding or claim brought by the Assignee against the Assignor, any of the members or managers of the Assignor, or any guarantors of the Note or the Premises (including the fees and expenses of the Assignor's or the managers', members' or guarantors' attorney in defending against such action, proceeding or claim) and upon the occurrence of a voluntary or involuntary bankruptcy of the Assignor or any of the members or managers of the Assignor, or any guarantors of the Note under the Bankruptcy Code (as defined in Paragraph 15 hereof below) rents and profits from the Premises shall not be available to pay administrative expenses of the bankruptcy estate where such administrative expenses constitute fees and expenses of the Assignor's attorneys, representatives or agents. After the occurrence of an Event of Default hereunder or under the Note or under any of the other Loan Documents, all rents and profits of the Premises collected by the Assignor or its agents or representatives shall be held in trust for the Assignee.

5. The Assignor hereby agrees that each tenant of the Premises shall be and is hereby conclusively and irrevocably authorized by the Assignor to pay to the Assignee all rents and other charges of whatever nature otherwise due and payable by such tenant to the Assignor as landlord under such tenant's Lease from and after the date upon which notice to pay the Assignee all rents and other charges has been served upon such tenant together with a copy of the Mortgage, this Assignment of Leases, or any other document which the Assignee elects to serve upon such tenant. The tenants shall pay such rents and other sums to the Assignee without any obligation on the part of such tenant, or other obligor to determine the actual existence of any default or event claimed by the Assignee as the basis for the Assignee's right to receive such rents or other sums and notwithstanding any notice from or claim of the Assignor to the contrary. The Assignor hereby waives any right or claim against any tenant or other obligor for any such rents and other sums paid by tenant or other obligor to the Assignee.

6. Without limiting any other legal rights of the Assignee as the absolute assignee of the rents, issues and profits of the Premises and in furtherance thereof, the Assignor agrees that if an Event of Default hereunder or under the Note, the Mortgage, or any of the other Loan Documents has occurred and is continuing, whether before or after the Note is declared due in accordance with its terms or under the terms of the Note or the Mortgage, the Assignee may, at its option, (i) take actual possession of the Premises hereinabove described, or of any part thereof, personally or by agent or attorney, as for condition broken, and with process of law, enter upon, take, and maintain possession of all or any part of said Premises together with all documents, furniture, appliances, equipment, books, records, papers and accounts relating thereto (other than the furniture or other personal property of any tenants leasing a portion of the Premises), and exclude the Assignor, and the Assignor's agents or employees, therefrom and hold, operate, manage and control the Premises, and at the expense of the Premises, from time to time, cause to be made all necessary or proper repairs, renewals, replacements, useful alterations, additions, betterments and improvements to the Premises as may seem judicious, and pay taxes, assessments and prior or proper charges on the Premises, or any part thereof, and insure and reinsure the same, and lease the Premises in such parcels and for such times and on such terms as

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the Assignee may deem fit, including leases for terms expiring beyond the maturity date of the Note and the other obligations secured hereby, and cancel any Lease or sublease for any cause or on any ground which would entitle the Assignor or any of them to cancel the same and in every such case have the right to manage and operate the said Premises and to carry on the business thereof as the Assignee shall deem proper, (ii) with or without taking possession of the Premises, the Assignee may proceed to enforce the Leases and collect all sums due or to become due thereunder and by so doing the Assignee shall not be deemed a mortgagee in possession nor to have assumed or become responsible or liable for any obligations of the Assignor arising thereunder or in respect thereof and (iii) without notice and without giving bond to the Assignor or anyone claiming by, under or through it, and without regard to the solvency or insolvency of the Assignor or the then value of the Premises, the Assignee shall be entitled to have a receiver appointed for all or any part of the Premises and the rents, issues and profits thereof, with such power as the court making such appointment shall confer, and the Assignor hereby consents to the appointment of such receiver and shall not oppose any such appointment. Any such receiver may, to the extent permitted under applicable law, without notice, enter upon and take possession of the Premises or any part thereof by force, summary proceedings, ejectment or otherwise, and may remove the Assignor or other persons and any and all property therefrom, and may hold, operate and manage the same and receive all earnings, income, rents, issues and proceeds accruing with respect thereto or any part thereof, whether during the pendency of any foreclosure or until any right of redemption shall expire or otherwise.

7. Subject to the provisions of applicable Illinois law, any sums (other than security deposits subject to the applicable City of Evanston Landlord-Tenant Ordinance) received by the Assignee under or by virtue of this Assignment shall be applied to the payment of or on account of the following in such order and manner as Assignee may elect:

(a) to the payment of all proper charges and expenses, including the just and reasonable compensation for the services of the Assignee, its attorneys, agents, clerks, servants and others employed in connection with the operation, management and control of the Premises and the conduct of the business thereof (including the payment of all real estate taxes, insurance premiums and operating expenses of the Premises) and, if the Assignee shall elect, to the establishment of a reserve which shall be sufficient in Assignee's judgment to indemnify it against any liability, loss or damage on account of any matter or thing done in good faith and in pursuance of the rights and powers contained herein;

(b) to pay or reimburse the Assignee for any amount owing or previously advanced by the Assignee hereunder, or under the Mortgage to perform the covenants of the Assignor hereunder or thereunder;

(c) to the payment of any sum secured by a lien or encumbrance upon the Premises;

(d) to the cost of completing any improvements being constructed on or about the Premises;

(e) to pay the costs incurred by the Assignee in its exercise of its rights and remedies hereunder or under the Mortgage, the Note or the other Loan Documents; and

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(f) to the reduction of the obligations hereby secured, whether or not the same may then be due or be otherwise adequately secured.

8. Unless otherwise required by applicable Illinois law, the manner of application of such sums and the items set forth in paragraphs (a) through (f), inclusive, which shall be credited or paid out of same shall be within the sole discretion of the Assignee and nothing herein contained shall obligate the Assignee to use any such sums for a purpose other than reducing the obligations hereby secured unless it shall elect so to do. The Assignee shall be subrogated to any lien discharged out of the rents, income and profits of the Premises.

9. The Assignor hereby further covenants that the Assignor will upon request of the Assignee execute and deliver such further instruments and do and perform such other acts and things as the Assignee may reasonably deem necessary or appropriate to more effectively vest in and secure to the Assignee the rights and rents which are intended to be assigned to the Assignee hereunder. The Assignor irrevocably waives any right it now or hereafter may have to offset any claim or liability owing from any of them to any obligor on a Lease against sums due or to become due from such obligor under a Lease.

10. The Assignor covenants and agrees at its expense to promptly observe and perform all of the covenants, agreements and obligations imposed on it under the Leases and not to do or permit to be done anything to impair the security thereof (provided that the Assignor may act in furtherance of its charitable purposes which may include discounting or subsidizing rents), not to further assign or encumber their rights under the Leases or their rights to the rents or other sums due or to become due thereunder and not suffer or permit any of the Leases to be subordinated to any other liens or encumbrances whatsoever, any such subordination to be null and void unless done with the written consent of the Assignee. The Assignor will use its best efforts to compel the performance of each covenant and agreement of the respective tenants under any such Leases and will appear in and defend, at its own cost and expense, any action or proceeding arising out of or in any manner connected with the Assignor's interest in any Leases of the Premises. At the request of the Assignee, the Assignor covenants and agrees that the Assignee will submit copies of executed originals of all Leases to the Assignee.

11. The acceptance by the Assignee of this Assignment, with all of the rights, powers, privileges and authority so created, shall not, prior to entry upon and taking of actual physical possession of the Premises by the Assignee, be deemed or construed to constitute the Assignee a mortgagee in possession nor impose any obligation whatsoever upon the Assignee, it being understood and agreed that the Assignee does not hereby undertake to perform or discharge any obligation, duty or liability of the landlord under any Leases or under or by reason of this Assignment. The Assignee shall have no liability to the Assignor or anyone for any action taken or omitted to be taken by it hereunder. Should the Assignee incur any liability, loss or damage under or by reason of this Assignment or for any action taken by the Assignee hereunder, or in defense against any claim or demand whatsoever which may be asserted against the Assignee arising out of any lease, the amount thereof, including costs, expenses and attorneys' fees, together with interest thereon at the rate of interest in an amount equal to the lesser of (1) the highest interest rate per annum permitted by applicable law or

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(2) the Default Rate as defined in the Note, until paid, shall be secured by this Assignment and the Mortgage, and the Assignor shall reimburse the Assignee therefore immediately upon demand, and the Assignor's obligation to so pay shall survive payment of the obligations hereby secured and the release of this Assignment.

12. The rights and remedies of the Assignee hereunder are cumulative and are not secondary to or in lieu of but are in addition to any rights or remedies which the Assignee shall have under the said Note, the Mortgage, or any other Loan Document or under applicable law and the exercise by the Assignee of any rights and remedies herein contained shall not be deemed a waiver of any other rights or remedies of the Assignee, whether arising under the Mortgage or otherwise, each and all of which may be exercised whenever Assignee deems it in its interest to do so. The rights and remedies of the Assignee may be exercised from time to time and as often as such exercise is deemed expedient and the failure of the Assignee to enforce any of the terms, provisions and conditions of this Assignment for any period of time, at any time or times, shall not be construed or deemed to be a waiver of any rights under the terms hereof.

13. The right of the Assignee to collect and receive the rents assigned hereunder or to exercise any of the rights or powers herein granted to the Assignee shall, to the extent not prohibited by law, extend also to the period from and after the filing of any suit to foreclose the lien of the Mortgage, including any period allowed by law for the redemption of the Premises after any foreclosure sale.

14. At the direction of the Assignee, the Assignor, at the Assignor's expense, will at all times cause this Assignment, and appropriate financing statements and continuation statements with respect thereto, to be recorded and filed and to be kept recorded and filed in such manner and in such places, and will pay all such recording, filing or other taxes, fees and other charges, and will comply with all such statutes and regulations, as may be required by law in order to establish, preserve and protect the respective interests and rights of the parties to the Leases and their respective successors and assigns and the Assignor's interests and rights hereunder (including without limitation, any interests or rights under any Lease or any supplement or amendment to any Lease or otherwise, acquired after the date hereof) and to establish, preserve and protect the lien created hereby and by the Mortgage as a valid present assignment of the Assignors' right, title and interest in, to and under the Leases.

15. The Assignor also hereby unconditionally assigns, transfers and sets over to the Assignee all Assignor's claims and rights to the payment of damages arising from any rejection by any lessee of any Lease under the Bankruptcy Code, 11 U.S.C. §101 *et seq.* (the "Bankruptcy Code"). The Assignee shall have the right to proceed in its own name or in the name of the Assignor in respect of any claim, suit, action or proceeding relating to the rejection of such Lease, including, without limitation, the right to file and prosecute, to the exclusion of the Assignor, any proofs of claim, complaints, motions, applications, notices and other documents, in any case in respect of such lessee under the Bankruptcy Code. This assignment constitutes a present, irrevocable and unconditional assignment of the foregoing claims, rights and remedies, and shall continue in effect until all of the indebtedness hereby secured by this Assignment shall have been satisfied and discharged in full. Any amounts received by

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Assignee as damages arising out of rejection of a Lease as aforesaid shall be applied first to all costs and expenses of Mortgagee (including, without limitation, attorneys' fees) incurred in connection with the exercise of any of its rights or remedies under this paragraph and then in accordance with the provisions of this Assignment.

16. If there shall be filed by or against the Assignor a petition under the Bankruptcy Code, and the Assignor, as lessor under the Leases, shall determine to reject the Leases (or any of them) pursuant to Section 365(a) of the Bankruptcy Code, and the Assignor shall give the Assignee not less than ten days prior notice of the date on which the Assignor shall apply to the bankruptcy court for authority to reject the lease. The Assignee shall have the right, but not the obligation, to serve upon the Assignor within such ten-day period a notice stating that (a) the Assignee demands that the Assignor assume and assign the Leases to the Assignee pursuant to Section 365 of the Bankruptcy Code and (b) the Assignee covenants to cure or provide adequate assurance of future performance under the lease. If the Assignee serves upon the Assignor the notice described in the preceding sentence, the Assignor shall not seek to reject the Leases (or any of them) and shall comply with the demand provided for in clause (a) of the preceding sentence within 30 days after the notice shall have been given, subject to the performance by the Assignee of the covenant provided for in clause (b) of the preceding sentence.

17. This Assignment shall be assignable by the Assignee and all of the terms and provisions hereof shall be binding upon and inure to the benefit of the respective executors, administrators, legal representatives, successors and assigns of each of the parties hereto. All provisions hereof are severable and if any provisions hereof shall be invalid or unenforceable, the validity and enforceability of the remaining provisions hereof shall in no way be affected thereby.

18. NEITHER ASSIGNOR, ASSIGNEE, ANY MANAGER OR MEMBER OF THE ASSIGNOR, ANY GUARANTOR OR ANY OTHER PERSON OR ENTITY LIABLE FOR THE OBLIGATIONS HEREBY SECURED, OR ANY ASSIGNEE, SUCCESSOR, THEIR OR PERSONAL REPRESENTATIVE OF ASSIGNOR, ASSIGNEE, ANY GUARANTOR OR ANY OTHER PERSON OR ENTITY SHALL SEEK A JURY TRIAL IN ANY LAWSUIT, PROCEEDING, COUNTERCLAIM OR ANY OTHER LITIGATION PROCEDURE BASED UPON OR ARISING OUT OF THIS ASSIGNMENT OF LEASES, THE NOTE, THE MORTGAGE, OR ANY INSTRUMENT SECURING THE NOTE, ANY COLLATERAL FOR THE PAYMENT HEREOF OR THE DEALINGS OR THE RELATIONSHIP BETWEEN OR AMONG SUCH PERSONS OR ENTITIES, OR ANY OF THEM. NEITHER ASSIGNEE, ASSIGNOR NOR ANY MEMBER OR MANAGER OF THE ASSIGNOR OR ANY GUARANTOR OR ANY SUCH OTHER PERSON OR ENTITY WILL SEEK TO CONSOLIDATE ANY SUCH ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED, WITH ANY OTHER ACTION WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED. THE PROVISIONS OF THIS PARAGRAPH HAVE BEEN FULLY DISCUSSED BY THE PARTIES HERETO, AND THE PROVISIONS HEREOF SHALL BE SUBJECT TO NO EXCEPTIONS. NO PARTY HAS IN ANY WAY AGREED WITH OR REPRESENTED TO ANY OTHER PARTY THAT THE PROVISIONS OF THIS PARAGRAPH WILL NOT BE FULLY ENFORCED IN ALL INSTANCES.

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IN WITNESS WHEREOF, the Assignor has executed this Assignment of Leases and Rents as of the day and year first above written.

CDS HARVARD, LLC, an Illinois limited liability company

By: CMHDC DEVELOPMENT SERVICES, an Illinois not-for-profit corporation

Its: Managing Member

By: 
Its: Executive Director
Printed Name: Rafael Leon

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ACKNOWLEDGMENT

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

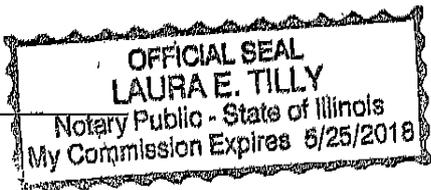
I, Laura Tilly, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that Rafael Leon, the Executive Director of the Chicago Development Services, which is the managing member of CDS HARVARD, LLC, a Illinois limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument appeared before me this day in person and acknowledged that he signed and delivered the same instrument as his own free and voluntary act and as the free and voluntary act of said limited liability company, in his capacity as the Executive Director of the CMHDS Development Services, which is the managing member of CDS HARVARD, LLC, a Illinois limited company, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 17th day of October, 2016.

[Signature]
Notary Public

(SEAL)

Commission expires:



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EXHIBIT A
(to Assignment of Leases and Rents)

LEGAL DESCRIPTION OF REAL ESTATE

PARCEL 1:

LOT 5 (EXCEPT THAT PART LYING WEST OF A LINE PARALLEL WITH AND 40 FEET EAST OF THE WEST LINE OF SECTION 30) AND LOT 6 ALL IN BLOCK 3 IN EVANSTON HEIGHTS IN THE NORTHWEST ¼ OF SECTION 30, TOWNSHIP 41 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

LOT 4 (EXCEPT THE EAST 7 FEET THEREOF AND EXCEPT FROM SAID LOT THAT PART THEREOF DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT; RUNNING THENCE EAST ALONG THE SOUTH LINE OF SAID LOT 37.45 FEET; THENCE NORTHWESTERLY ON A STRAIGHT LINE 40.26 FEET TO A POINT IN THE WEST LINE OF SAID LOT, 14.79 FEET NORTH OF THE SOUTHWEST CORNER THEREOF; THENCE SOUTH ALONG SAID WEST LINE 14.79 FEET TO THE POINT OF BEGINNING), IN BLOCK 3 IN EVANSTON HEIGHTS, BEING A SUBDIVISION IN THE NORTHWEST ¼ OF SECTION 30, TOWNSHIP 41 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Address: 1216 Harvard Terrace, Evanston, Illinois.

Permanent Index Numbers: 11-30-115-001, Vol. 059; 11-30-115-002, Vol. 059; 11-30-115-079, Vol. 059.